

# **North Smithfield Zoning Board of Review**

## **Meeting Minutes of November 8, 2006**

**The North Smithfield Zoning Board of Review met on Wednesday, November 8, 2006, at 7:00 p.m. at Primrose Fire Station, North Smithfield, Rhode Island.**

**Present: Emilie Joyal, Chairwoman, Cornelia Laprade, William Juhr, Stephen Kearns, Vincent Marcantonio, Linda Vario, William Halliwell**

**Also present were the Assistant Solicitor, Richard Nadeau, Esq.; Robert Benoit, Building and Zoning Official; and a court stenographer from Allied Court Reporters.**

**Call to Order: The Chair called the meeting to order at 7:07 p.m. at Primrose Fire Station.**

**The Chair reviewed the procedures of the Board for all present.**

**I. Continued application of Leonard A. and Constance Pezza d/b/a Granite Realty for an appeal of a cease and desist order issued by the Building and Zoning Official, under Section 8.4 of the Zoning Ordinance. Subject site is off Pine Hill Road, Plat 7, Lot 38 and Plat 10, Lot 1.**

**The Chair read a letter dated November 2, 2006, which she received**

from Thomas Plunkett, attorney for the applicant. The letter stated that the applicant has been granted a stay by the Providence County Superior Court. The applicant would like to come to a complete resolution on the Superior Court case before moving forward to the appeal with the Zoning Board. Mr. Nadeau stated that at the time of the resolution of the court case, the appeal will be ended. The Chair stated that the Board will await instruction from Superior Court.

**II. Application of Blackstone Smithfield Corporation, seeking to commence a Major Land Development Project. This will require the granting of a Special Use Permit per section 5.4.12 Land Development or Planned Development of the current Zoning Ordinance. Location: One Tupperware Drive, North Smithfield, Plat 3, Lots 2 & 2A.**

Michael Kelly, attorney for Blackstone Smithfield Corporation, addressed the Board and provided a history of the site and the development project. The site is the former Tupperware mill. The owner has attempted many times to use the space for industrial and manufacturing, but this use is not possible due to jobs moving out of the region. Therefore, the applicant would like to use the site for a mix-use development. A portion of the building will be commercial and industrial use, and the remainder will be residential use.

Mr. Kelly provided information about the size of the project: 35 acres; 120 condominium units (approx. 300,000 square feet); 100,000 square feet of manufacturing and warehouse space; 288 parking spaces (9

handicapped). The current plan includes 11 acres of impervious surface (a reduction of .6 acres from original plan).

Mr. Kelly stated that the proposed development is similar to the Slatersville Mill project. It is the rehabilitation of a mill in dire need of repair. The heating system is not usable, and new roofing is needed. The mill is not laid out for modern manufacturing. The fire safety system of the building has been upgraded. The North Smithfield Planning Board on October 5, 2006 meeting approved the Master Plan and found it conformance with the town's comprehensive plan for rehabilitation of mills.

The applicant has made arrangements with the Town of Blackstone for water and sewer system maintenance. The only services to the site provided by North Smithfield are fire, rescue, and police. Rubbish removal, snow removal, and sanding will all be handled privately. According to their traffic study, there should be no major impact. The applicant did meet with officials from the Town of Blackstone and will be making improvements to Butler Street (the main entrance to the property). The street will be widened and sidewalks will be added. Mr. Kelly stated that the residents will not be families with children; therefore, there should not be a big impact on schools. The tax revenue from the condominiums is projected at \$384,000, which in addition to tax revenue from the manufacturing and warehouse portion of the property will bring the total to approximately \$425,000 in tax revenue for the town.

**Mr. Kelly submitted the following exhibits to the Board:**

**P1) Application packet submitted by Blackstone Smithfield Corporation**

**P2) Planning Board Master Plan Decision, dated October 12, 2006, stating the Board's unanimous approval for Master Plan Stage of a Major Land Development Project.**

**P3) 200-ft. radius map stamped by Marc Nyberg.**

**P4) Existing condition/demolition plans, dated August 17, 2004, stamped by Marc Nyberg, professional land surveyor.**

**P5) Packet "High Rocks Condominiums," which includes drawings and pictures of the proposed project.**

**Armen Harootian, project manager for Blackstone Smithfield Corporation was sworn in by the court stenographer. Mr. Kearns stated that he is in favor of this type of project, as it conforms to the comprehensive plan, and is a good reuse of existing infrastructure. He agrees with Mr. Kelly that the space is not usable for manufacturing purposes. Mr. Kearns did express concern that he is not able to fully review all information because it was submitted just this evening.**

**Mr. Harootian agreed that manufacturing is not a good use for the mill today and would be out of character with the neighborhood. All abutters are residential, therefore the residential use would be more in character with the neighborhood. Mr. Harootian stated that the**

applicant has extensive experience with this type of project (rehabilitation of mills). He also stated that the applicant is constructing a new sewage treatment system, which will pump sewage directly into the Blackstone sewage system. The current system, which consists of an onsite sewer plant, will be completely shut down by December 1, and the new sewer system is currently being constructed.

The Chair asked about the parking lot lighting and if it will cause glare and be disruptive to abutters. Mr. Harootian stated that the parking lot section of the property only affects a small section of houses on Butler Street and that proposed lighting will cause no increase in glare from the existing lighting. The Chair asked if the plans had been approved by the fire department. Mr. Harootian stated that they had not been approved by the fire department, but that they had been drawn according to the fire department's recommendations. The Chair asked about the proposed refuse disposal system. Mr. Harootian described the system, which consists of dumpsters in the basement that collect trash deposited in chutes from the floors above. The dumpsters are then carted out of the building. The Chair also asked about proposed signage. Mr. Harootian stated that there will be a stone structure with the name of the condominiums and that the size will fall within zoning regulations.

Mr. Kelly mentioned the lot to the south of the project, which was formerly part of Lot 2. At this time there are no plans to do anything

with this land, but it can be used as access to the river by condominium residents. They will most likely be working with the DEM in deciding what to do with this land.

Mrs. Laprade asked for more details about the rubbish removal system and if there will be odors associated with the rubbish storage in the basement dumpsters. Mr. Harootian stated that the system is very common in larger apartment buildings. The system is designed to sanitize and contain the trash deposited. He stated that the dumpsters will be carted out frequently.

Mr. Halliwell asked about the Master Plan decision and the requirement for affordable units in the residential condominiums. Mr. Harootian stated that there is a stipulation for affordable housing.

Mr. Marcantonio asked if the Planning Board had made any restriction to the mix use of the site. Mr. Harootian stated that there are no restrictions specified, but that it is in the applicant's best interest to not lease manufacturing space to businesses that may be detrimental to enticing potential residents to buy condominiums. He also stated that he has already refused to lease to a spray refinishing business and will not lease to businesses that are incompatible with the residential use portion of the development. He stated that because of fire code restrictions, the commercial portion of the development is completely separated from the residential section.

Mr. Juhr asked about the current manufacturing tenants of the building. Mr. Harootian stated that the current businesses are as follows: a machine shop, a warehouse for a clock company, Nova Pipe which makes plastic liners for sewers, and Polyworks which makes resins and plastics. The manufacturing space is 100% occupied. Mr. Juhr asked if there is a list of the chemicals being used by these businesses. Mr. Kelly stated that there is no list, but the applicant could get one. Mr. Juhr then asked about the oils used in the machine shop. He stated his concern that people would want to live there with those businesses operating so close. Mr. Harootian stated that the applicant does not expect any problems. They will continue leasing to these types of businesses.

Mr. Kearns asked whom the applicant is using for a landscape architect. Mr. Kelly stated that Gifford Design is the landscape architect for the project, but no representative is present at this meeting. Mr. Kearns asked about the glow produced from the high concentration of lighting in the parking lot. He is concerned with light pollution and asked how the applicant will address the situation. Mr. Kelly stated that according to the preliminary approval with the Planning Board, a condition of the approval is the submission of photometric plans that will prevent both glare and light from pouring off the site. Mr. Kearns asked about the open space and green area on the site. He asked if walking trails exist or if they will need to be constructed. Mr. Kelly stated that the walking trails are there now and they connect to DEM property. Mr. Kelly also stated that there are no

plans to alter the open space and that the applicant has reduced impervious space on the site.

Robert J. Clinton, registered professional engineer from VHB, was sworn in by the court stenographer. He testified in regard to the traffic impact study presented to the Planning Board. The conclusions were that intersections would operate efficiently and no significant traffic changes would occur in the surrounding streets. The traffic would continue at Service B or better at peak periods. He also reviewed planned offsite improvements, including plans to widen Butler Street to 30 feet wide and add new sidewalks. The applicant submitted exhibit P6, a photo of Butler Street showing concrete sidewalk on the west side of the road. Mr. Clinton stated that parking will be limited to one side of the road. As result, the property will have better access than it currently has and there is adequate circulation for emergency vehicles.

Mr. Halliwell asked about the agreement with the Town of Blackstone and if the Board could be forwarded copies of the agreement. Mr. Kelly stated that the agreement with the Blackstone Department of Public Works will be made available to the Board. Mr. Halliwell asked how much traffic from the development will be coming into North Smithfield and if there will be any adverse impact to North Smithfield roads. Mr. Clinton stated that there will be no traffic in North Smithfield or adverse impact to the roads.



The Chair stated that concern with not being able to adequately review the material submitted this evening and would entertain a motion to continue the application. Mr. Kearns made a motion to continue the application to November 14, 2006. Mr. Marcantonio seconded the motion. Mr. Juhr stated that pages 20-24 of the packet submitted were not readable. Mr. Kelly said that new copies would be provided. The roll call vote was as follows: AYE: Mr. Marcantonio, Mr. Juhr, Mr. Kearns, Ms. Joyal, Mrs. Laprade.

III. Application of Bucci Development Inc., requesting dimensional variance: modification of conditions to special use permit. Location: Old Louisquisset Pike and Eddie Dowling Highway, North Smithfield, Plat 13, Lots 17, 18, 20, 21, 44, 53, 76, 111, 112, 123, and 143; Plat 21, Lots 25, 26, 29, 30, 31, 32, 50, and 61.

John Mancini, attorney for the applicant, addressed the Board. The applicant is seeking a variance from the current ordinance, which allows a maximum of 60 square feet of signage. Mr. Mancini stated that the current ordinance does not allow sufficient signage to accommodate the development of Dowling Village. The applicant is requesting signage based on a formula of 1.25 square feet of signage per 1 linear foot of building frontage, with a cap of 500 square feet for Phase I of the development.

The applicant submitted the following exhibits:

P1) Computer-generated drawing of proposed pharmacy with 180 sq.

ft. of signage (proposed signage based on 1.25/1 ratio as stated above.

P2) Decision of the North Smithfield Zoning Board of Review, dated January 18, 2005.

P3) Decision of the North Smithfield Zoning Board of Review, dated November 9, 2004.

P4) Memorandum from Town Planner Michael Phillips, outlining his recommendations to the Planning Board in regard to the sign variances sought by the applicant, dated October 31, 2006.

Referring to P4, Mr. Mancini stated that Smithfield uses the ratio of 1/1 with a cap of 500 square feet, and Cumberland uses a 1.5/1 ratio. Mr. Mancini stated that the applicant will return for dimensional variances on future phases of the Dowling Village development. Mr. Mancini stated that current sign allowances are simply not adequate for the purposes of Dowling Village and a denial of the variance will be more than a mere inconvenience for the applicant. He stated that though the applicant initially asked the Planning Board for a positive recommendation of signage based on a 2/1 ratio, the applicant has modified its request to the ratio of 1.25/1, which is more in line with the Planning Board's suggestions.

The Chair asked the total variance size the applicant is requesting. Mr. Mancini stated that they don't have a set number; rather they are seeking a variance based on the ratio of 1.25/1, with a cap. The signage for Building 1 will total 180 sq. ft.; the other two buildings are

smaller so the signage will be less than 180 sq. ft. (tied to the linear feet of building frontage). The Chair asked if the applicant is requesting that this formula be applied to all buildings in the development. Mr. Mancini stated that the applicant is only requesting the variance on the three buildings of Phase I. The applicant originally wanted the variance to apply to all phases of the project, but the Planning Board wanted the applicant to reappear before the Board for each phase.

Mr. Juhr stated that the requested signage is three times that allowed in the zoning ordinance. Mr. Mancini stated that 60 sq. ft. is simply not sufficient for the purposes of the applicant. Mr. Mancini stated that the applicant is not asking for the ordinance to be modified, but that the zoning ordinance does allow for a variance pursuant to a standard. Since the Zoning Board decides each case on its own merit, a precedent will not be set. The applicant will show plans for each tenant when it reappears for a Phase II variance request.

Mr. Halliwell stated that variances should be decided on specific buildings, not rewriting the ordinance and granting dimensional variances based on a ratio formula. The Chair stated her concern about granting a variance on three buildings. Mr. Nadeau agreed with Mr. Halliwell that the variance relief should be granted on a building-by-building basis. Mr. Nadeau also stated that the Planning Board's decision was a rejection of the suggestions outlined in P4, and the applicant should come back with a schematic for each

**design, not a general amendment to the ordinance.**

**Mr. Halliwell stated that he would be willing to decide on Building 1 for tonight, but not on all three buildings.**

**The Chair stated that the applicant is facing a situation in which the current zoning ordinance is not in step with current development. Mr. Juhr agreed that the ordinance needs to be updated. Mr. Marcantonio stated that he has been informed that the town is currently working on a new ordinance and he would prefer to wait until it is written before voting on this variance relief request.**

**Mr. Mancini responded that it is unfair to ask the applicant to wait until the ordinance is rewritten. He stated that the applicant has submitted specific sizes for the signage of Building 1 and would like the Board to vote on the variance at this time. Brian Bucci, developer for Dowling Village, was sworn in by the court stenographer. He stated that he has a contract with the tenant for this specific building and this (as shown in P1) is the signage requested by the tenant. Mr. Bucci stated that the requested signage is part of the pharmacy business model and the signage is needed to support the business.**

**Mr. Kearns asked Mr. Bucci if the tenant for Building 1 always uses this size sign. Mr. Bucci stated that the requested signage is the prototypical signage for the tenant. Mr. Kearns asked if there are other jurisdictions that restrict sign size. Mr. Bucci stated that other**

jurisdictions do restrict signage, but that he feels that it is possible that the tenant may pass on leasing the building if the variance is not granted. Mr. Juhr asked Mr. Bucci if the developers considered the signage limitations when planning the development. Mr. Bucci stated that signage allowances vary from town to town, and limitations on signage would not preclude the developer from embarking on a project. Mr. Bucci stated that requesting dimensional variances on a building-by-building basis for the development is a good idea, because that way the Board will see that the signage is not obtrusive.

Mr. Mancini referred to a drawing that showed the proposed building with 60 square feet of signage and stated that size is inadequate for the business. Mr. Kearns agreed that the 60 sq. ft. sign is out of scale with the building. He did suggest that this development can be used as an opportunity for North Smithfield to make their developments look different from typical retail developments. Mr. Kearns asked if the developers are aware of any cases in which the tenants had to change their signage to accommodate a uniform look. Mr. Bucci stated that the developers have taken time to make the buildings of Dowling Village look so nice, but that the issue is the tenants have to be able to adequately identify their business. Mr. Mancini stated that the requested signage is appropriate for the building and is neither offensive nor obtrusive.

The Chair asked if the signs will be lit. Mr. Bucci responded that all signs will be backlit. Ms. Laprade stated that she feels the requested

signage is appropriate for the business and is not intrusive or offensive. Ms. Vario agreed with Mrs. Laprade and asked if the developers were planning any continuity in the design of the signs for the businesses of Dowling Village. Mr. Bucci stated that the requested formula (ratio of square feet of sign to linear feet of building frontage) is intended to force tenants to use space available in the best way. Ms. Vario asked if it is possible to design something into the development to make the signage blend. Mr. Bucci stated that the buildings have a similar design. The sign size will give the buildings a sense of continuity. He stated that they have no plans to make the signs the same colors, but the font could be similar among the businesses. Ms. Vario stated that certain villages keep all sign colors and fonts the same, which she feels makes the developments look nice.

Mr. Halliwell asked Mr. Nadeau if the Board could place a stipulation on granting the variance based on the 1.25/1 ratio, suggesting that future requests for dimensional variances for Dowling Village signage not exceed this ratio. Mr. Mancini stated that the applicant would be amenable to that. Mr. Juhz stated that the memorandum from the Town Planner (P4) suggests a ratio of 1/1. Mr. Mancini stated that the applicant initially proposed a ratio of 2/1 to the Planning Board and chose the 1.25/1 ratio because it is in between the initial request and the suggestion of the Town Planner. Mr. Juhz stated that he likes the 1/1 ratio better. Mr. Bucci stated that a smaller ratio would reduce the signage proportionally, the tenant would use the same signs; they

would just be smaller.

Mr. Halliwell state that a favorable recommendation from the Planning Board is not required on variance requests, but that placing a stipulation on the variance will help control future requests for variance relief for signage at Dowling Village.

Mr. Nadeau informed the Board that a ratio of 1.25/1 would equal 142 square feet, not 179 square feet, as shown on the plans. Mr. Bucci stated that according to the Town Planner, the total signage does not include directional signage, such as “Drive-Thru.” By subtracting the directional signage, the requested signs are a total of 151 square feet, which is where they came up with the requested 1.25/1 ratio. Mr. Mancini state that the hanging plaque is also deemed a directional sign, so the variance they are requesting is based on 147 square feet of signage. Mr. Nadeau pointed out that this amount still exceeds the 1.25/1 ratio and suggested that the Board keep that in mind when framing a motion.

Audience member James Brennan was sworn in by the court stenographer and spoke against the applicant’s request. He stated that the Board should not consider what other towns do or what the buildings look like, but rather what the town wants. He stated that the town wants what is stated in its ordinance. Dr. Brennan responded to the applicant’s statement that the tenant may leave if the variance is not granted by saying that he does not think the tenant will leave. He

**stated that shoppers know what is sold at each store; the tenants do not need huge sign variances.**

**The Chair announced a 5-minute recess at 9:06 p.m. The Chair called the meeting back to order at 9:15p.m.**

**Mr. Halliwell stated: In the petition of Bucci Development requesting a dimensional variance from section of the North Smithfield Zoning Ordinance, located at Old Louisquisset Pike and Eddie Dowling Highway, North Smithfield, Plat 13, Lots 17, 18, 20, 21, 44, 53, 76, 111, 112, 123, and 143; Plat 21, Lots 25, 26, 29, 30, 31, 32, 50, and 61, more specifically Phase I of the Dowling Village development, I find the following findings of fact:**

- 1. Mr. Brian Bucci testified that the variance is needed in order to serve his tenant.**
- 2. The proposed tenant has asked the applicant to appear before the board for this variance.**
- 3. The current zoning restriction poses more than a mere inconvenience to the applicant.**

**Based on the findings of fact Mr. Halliwell moved to grant the variance with the following stipulations: (1) the ratio for signage in the remaining 2 buildings in Phase I of Dowling Village will not exceed 1.25 square feet of signage for every 1 linear foot of building frontage and (2) the variance is for Phase I only. Ms. Joyal seconded**



**the motion.**

**Mr. Kearns stated that although he does believe that the current ordinance is outdated, he is concerned with the large size of the requested variance. He stated that while he is not opposed to the proposed design, he is concerned with setting a benchmark for the town and the development in specific. Mr. Halliwell responded that every decision sets some kind of precedence. He added the stipulation to his motion so that future sign relief requests for Phase I of Dowling Village will not exceed the 1.25/1 ratio, and hopefully the ordinance will have been updated by Phase II. Mr. Kearns also stated that he has seen no evidence that the tenant would leave based on smaller signage. Mr. Jühr agreed and stated he is uncomfortable with a variance that is three times what the ordinance allows. He would rather put off the decision until the ordinance is updated. He does not believe this will stop the project from being able to proceed. Mr. Marcantonio also stated that he would like to wait for a new ordinance to make this decision.**

**Roll call vote was as follows AYE: Mr. Halliwell, Ms. Joyal, Ms. Laprade; NO: Mr. Kearns, Mr. Marcantonio. The variance was denied, with a vote of 3-2.**

**The Chair announced that the Board has a 10:00 pm curfew, and as a result will not have time to hear both of the remaining cases on the agenda (North Smithfield Middle School and Woonsocket**

**Neighborhood Development). Based on the date of the original application, the Chair stated that the Town of North Smithfield's application would be heard this evening and the application of Woonsocket Neighborhood Development would be continued until November 14, 2006 at Kendall Dean School.**

**IV. Continued application of the Town of North Smithfield, requesting a Special Use Permit per section 5.4.4 (1), public and private schools, and a Dimensional Variance, per section 5.5.1 of the Zoning Ordinance, location 412 Greenville Road, Plat 15, Lots 44, 45, 46 & 57, Zoning District RA-25.**

**Architect Mr. Steven Hughes of Robinson Green Beretta Corporation addressed the Board on behalf of the applicant. He stated that the voters of North Smithfield had approved building a middle school at the existing high school site. The middle school building will be a 3-story building, due to constraints of fitting the building into the existing parking lot of North Smithfield High School, off Providence Pike. Mr. Hughes stated that the building will be 105,000 square feet. The building plans call for 14 ft. ceiling to floor height for each story, which totals 42 ft. for the roof height. With parapets, the building height will average 45 ft., with the highest point being 52 ft. The existing ordinance allows for a height of 35 ft. Mr. Halliwell asked why the floor to ceiling height was planned at 14 ft. Mr. Hughes answered that this height will allow for heating, air conditioning, and sprinkler systems. Mr. Halliwell stated that since the Planning Board**

**had given the project their support, he was ready to make a motion.**

**In the petition of the Town of North Smithfield requesting a special use permit per section 5.4.4 (1) and a dimensional variance per section 5.5.1. from the North Smithfield Zoning Ordinance, located at 412 Greenville Road, Plat 15, Lots 44, 45, 46 & 57, the applicant testified:**

**4. The North Smithfield voters approved the building of a middle school at the site of the existing high school.**

**5. 14-foot floor-to-floor height is required to accommodate heating, air conditioning systems, and sprinkler systems.**

**6. Denial of the dimensional variance would result in more than a mere inconvenience.**

**Mr. Nadeau reminded the Board to ask for public comment. Mr. Juhr asked if the extra 7 feet of building height would cause any problems with the fire department, specifically with their ladder height. Mr. Hughes said no problems would result, as the building will be fully equipped with sprinklers.**

**Audience member Gail Nevadonski of 1938 Providence Pike asked about the construction of the building, specifically asking about preblasting surveys and her concern about water use by the new building and how it will affect the residences surrounding the school. Ms. Nevadonski also asked why the applicant needed to request a**

**Special Use Permit.** Mr. Nadeau stated that there are allowed uses specified within each zone. Some uses are only permitted by special permit, with all schools falling into this category. Mr. Hughes stated that the building plans do not include blasting, but that abutters will be notified in the event that any blasting will take place. Mr. Nadeau added that the builders are required by the state to notify abutters of blasting.

Audience member Irene Nebiker asked about how the water use of the new building will be ascertained and the effect of the water use will have on surrounding properties. The Chair stated that the water issues are not relevant to the application. Mr. Halliwell suggested that Ms. Nebiker bring her concerns to the School Committee.

Based on the applicant's testimony, Mr. Halliwell made a motion to approve the special use permit and grant the dimensional variance. Mr. Marcantonio seconded the motion. Roll call vote was as follows  
AYE: Mr. Halliwell, Ms. Joyal, Ms. Laprade, Mr. Kearns, Mr. Marcantonio. Variance and special use permit granted, by a vote of 5-0.

V. The Chair made a motion to approve the minutes and decisions of October 24, 2006. Mr. Kearns seconded the motion will all in favor.

The chair adjourned the meeting at 9:46 p.m.

**Respectfully submitted,**  
**Angela Pugliese**